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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,163	04/12/2004	Ali Nikkah	UC-4005US	3719
39775	7590	12/16/2004	EXAMINER	
SYLMARK, INC. 4929 WILSHIRE BLVD SUITE 500 LOS ANGELES, CA 90010			SOOHOO, TONY GLEN	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/823,163	S.C. NIKKAH, ALI	
	Examiner	Art Unit	
	Tony G. Soohoo	1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>APR2004, 2SHEETS</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seiderman 4256407 in view of Bovagne 3345043.

Seiderman (cited on PTO 1449) discloses a base 20, a 1st blade assembly 24, 2nd blade assembly 26, with respective shafts, and a drive shaft at 32 driven by a single motor 30 which engages a 14, 16, 34, 36 33 sprocket gearing system to case the 1st and 2nd blades to rotate.

Siederman discloses all of the recited subject matter as defined within the scope of the claims with the exception of having the bladed shafts positioned in an angled position (claim 1), and having a third agitator, in a triangular configuration (claims 5, 9, 11), and having a container which is circular in cross section.

The reference to Bovagne teaches that in a tank having at two agitators at the bottom of the tank, the position of the agitator blades may be inclined thereby providing a change in intensity of agitation. Column 2, lines 22-25. Thus Bovagne teaches into the art of plural bottom mounted agitators in a tank that the inclination angle is an effective variable in agitation intensity. Also it is known in the art to produce gearing

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arrangements such that single drive to plural output drive shafts may be produced in output shafts which are at an incline (or skew) to one another.

Accordingly, it is deemed that it would have been obvious to one of ordinary skill in the art to modify the angle of inclination of the blades by a rearrangement of the gear and shaft angles to produce a more effective intensity of agitation as desired and further position the inclination to an angle to about 30 degrees so as to optimize the inclination to produce a more desirable effect. It has been held that rearranging parts of an invention involves only routine skill in the art. In *re Japikse*, 86 USPQ 70. It is further noted with regards to the particular angle of inclination, it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In *re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

With regards to the provision of a third blade assembly, it is deemed that it would have been obvious to one of ordinary skill in the art to add an additional blade to increase and multiply the effect of the mixing intensity. It is further noted that it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

With regards to the shape of the container, the use of cylindrical cross section containers are common and especially old and well known in the art. Accordingly, it is deemed that it would have been obvious to one of ordinary skill in the art to modify the shape of the container to a cylindrical shape in order to reduce construction costs

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3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seiderman 4256407 in view of Bovagne 3345043 as applied to claim 1 above, and further in view of Dormer et al 4911557.

The Seiderman 4256407 in view of Bovagne 3345043 reference as modified above discloses all of the recited subject matter as defined within the scope of the claims with the exception of the blade assemblies being of different heights.

The Dormer et al ref (cited on PTO 1449) discloses that a blender with multiple blade assemblies may be positioned with different heights, see H in figures 3 and 4, thereby providing and added processing blending effects in response to when a smaller or larger quantities of fluid is added in the container.

In view of the teaching of the Dormer reference that it is desirable to have a different height between plural blade assemblies, it is deemed that it would have been obvious to one of ordinary skill in the art to modify the Seiderman reference, as modified above, with a further modification of having the blade assemblies at a different height so that added processing blending effects may be provided in response to when a smaller or larger quantities of fluid is added in the container.

Conclusion

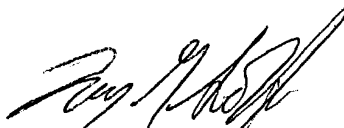
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Daniels, Jr 6527433 shows the use of a spout. Lomax 2321092, Hubner 3285582, and Morton 3342425 disclose plural agitator assemblies.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony G. Soohoo whose telephone number is (571) 272 1147. The examiner can normally be reached on 7:00 AM - 5:00 PM, Tues. - Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tony G Soohoo
Primary Examiner
Art Unit 1723
